

LAW OFFICES OF DALE K. GALIPO

Dale K. Galipo (SBN 144074)
E-mail: dalekgalipo@yahoo.com
Hang D. Le (SBN 293450)
E-mail: hlee@galipolaw.com
21800 Burbank Blvd., Suite 310
Woodland Hills, CA 91367
Tel: (818) 347-3333; Fax: (818) 347-4118

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JENNIE QUAN, individually and as
successor in interest to BENJAMIN
CHIN, deceased,

Plaintiffs,

vs.

COUNTY OF LOS ANGELES;
MARISOL BARAJAS; HECTOR
VAZQUEZ; and DOES 3-10, inclusive,

Defendants.

Case No. 2:24-cv-04805-MCS-KS

Assigned to:

Hon Mark C. Scarsi

Hon. Mag. Judge Karen L. Stevenson

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION IN LIMINE NO. 4 TO
EXCLUDE EVIDENCE OR
REFERENCES TO INFORMATION
NOT KNOWN TO DEFENDANT
DEPUTIES AT THE TIME OF THE
INCIDENT**

Final Pretrial Conference:

Date: January 26, 2026

Time: 2:00 p.m.

Crtrm: 7C

Trial:

Date: February 10, 2026

TO THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS
OF RECORD:

PLEASE TAKE NOTICE THAT that Plaintiff Jennie Quan hereby moves the Court, by way of this Motion in Limine No. 4, to exclude Defendants from introducing evidence, argument, or references to information not known to the defendant deputies at the time of the incident at trial. Plaintiff makes this Motion under Federal Rules of Evidence 401, 402, 403, and 404.

Statement of Local Rule 7-3 Compliance: This motion is made following a conference of counsel during which no resolution could be reached.

This Motion is based on this Notice of Motion, the Memorandum of Points and Authorities, the records and files of this Court, and upon such other oral and documentary evidence as may be presented at the time of the hearing.

DATED: January 6, 2026 LAW OFFICES OF DALE K. GALIPO

By */s/ Hang D. Le*

Dale K. Galipo

Hang D. Le

Attorneys for Plaintiff

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This civil rights case arises from the officer-involved shooting death of Benjamin Chin (“Decedent”) on June 19, 2023 by County of Los Angeles Sheriff’s Department Deputies Marisol Barajas and Hector Vazquez. Neither defendant deputy had ever encountered Decedent prior to the date of the incident nor knew anything about him except the information they were given over dispatch and their radio channels. Plaintiff, Decedent’s mother, is proceeding to trial on claims for (1) Excessive Force under the Fourth Amendment, pursuant to 42 U.S.C. 7 1983; (2) Battery under California law; (3) Negligence under California law; and (4) Violation of California Civil Code section 52.1 (Bane Act). As explained herein, the jury’s evaluation of Plaintiff’s core claims can only be based on the information known to the defendant deputies at the time they used force.

Accordingly, by way of this Motion, Plaintiff seeks to exclude at trial evidence, argument, and references to any information about Decedent that was not known to the defendant deputies at the time of their uses of force. Such information was unknown to the defendant deputies during their encounter with Decedent, is likely to unduly prejudice the jury against Decedent and plaintiff, and constitutes improper character evidence. Accordingly, Plaintiff seeks to exclude introduction to, references to or argument concerning the following evidence and related details contained therein, at trial:

- March 7, 2019 contact with law enforcement, including details that Decedent told an officer that he had suicidal thoughts, details regarding a U.S. DOJ/FBI file that was generated from a tip regarding Decedent based on Facebook posts, and Decedent being held on a 5150 as a result of the contact;
- Details regarding the restraining order taken by the Yen family against

- 1 Decedent, which included Decedent having to surrender firearms
- 2 - June 13, 2023 court appearance for the restraining order and subsequent
- 3 contact with law enforcement due to Decedent's outburst in court;
- 4 - June 17, 2023 contact with law enforcement that resulted from Decedent
- 5 attempting to turn over his firearm to a gun store;
- 6 - Evidence collected from Decedent's house after the incident, including 3D
- 7 print files for gun parts found on Decedent's computer;
- 8 - Decedent's journal and calendar, which includes his internal thoughts and
- 9 struggles
- 10 - Testimony from percipient witnesses that witnessed Decedent with his rifle
- 11 before defendant deputies responded to the scene (details of which were not
- 12 communicated to the defendant deputies); and
- 13 - Testimony from Syed Razvi, Decedent's deceased friend's father, who
- 14 interacted with Decedent on the day of the incident, and received a call from
- 15 Plaintiff informing him that Decedent had stabbed her.

16 **II. ARGUMENT**

17 **A. Information Unknown to Defendant Deputies is Not Relevant**

18 Under Federal Rule of Evidence 401, evidence is only relevant if "it has any

19 tendency to make a fact more or less probable than it would be without the evidence,"

20 and the fact is "of consequence in determining the action." Fed. R. Evid. 401(a).

21 Evidence that is not relevant is inadmissible. Fed. R. Evid. 402. In determining

22 whether an officer's use of force was objectively reasonable, trial courts and juries

23 must confine their inquiry to the information known to the officer at the time of the

24 use of force. *See Graham v. Connor*, 490 U.S. 386, 396 (1989). "The clarity of

25 hindsight cannot provide the standard for judging the reasonableness of police

26 decisions made in uncertain and often dangerous circumstances." *Tennessee v.*

27 *Garner*, 471 U.S. 1, 26 (1985). The "reasonableness" standard is an objective one.

1 *Kingsley v. Hendrickson*, 576 U. S. 389, 402 (2015).

2 The Ninth Circuit has held that information unknown to an officer at the time
3 of his use of force — including information acquired after the incident by
4 investigators or during discovery — cannot be considered. *Glenn v. Washington*
5 *County*, 673 F.3d 864, 873 (9th Cir. 2011). In *Glenn*, unbeknownst to the shooting
6 officer at the time of the incident, a witness had told a 911 operator that the suspect
7 “was threatening to kill everybody” and might “run at the cops with a knife.” *Id.* The
8 Ninth Circuit flatly rejected the district court’s “suggestion that . . . these statements
9 provided ‘uncontroverted evidence demonstrat[ing] that the officers’ safety concerns
10 were not at odds with information provided to law enforcement.” *Id.* at 873 n.8. The
11 Court explained that “[w]e cannot consider evidence of which the officers were
12 unaware--the prohibition against evaluating officers’ actions ‘with the 20/20 vision of
13 hindsight’ cuts both ways.” *Id.* (quoting *Graham*, 490 U.S. at 396). Accordingly,
14 juries in the Ninth Circuit are expressly instructed that they “must judge the
15 reasonableness of a particular use of force from the perspective of a reasonable
16 officer on the scene,” based on “the facts known to the officer.” Ninth Circuit Model
17 Jury Instruction 9.25.

18 The relevant legal issue is thus whether defendant deputies’ use of force
19 against Decedent was “‘objectively reasonable’ in light of the facts and
20 circumstances confronting them.” *See Graham*, 490 U.S. at 397. The reasonableness
21 analysis must be based only “upon the information the officers had when the conduct
22 occurred.” *Saucier v. Katz*, 533 U.S. 194, 207 (2001); *see Hayes v. Cnty. of San*
23 *Diego*, 736 F.3d 1223, 1232-33 (9th Cir. 2013) (“[W]e can only consider the
24 circumstances of which [the officers] were aware when they employed deadly
25 force”). Here, defendant deputies contend that they shot Decedent because they
26 believed he posed an immediate threat of death or serious bodily injury when they
27 saw that he possessed a rifle. The defendant deputies admitted that they did not know

1 Decedent prior to the incident date and had no knowledge of his background,
2 including prior law enforcement contacts, prior bad acts, or court records. Moreover,
3 defendant deputies were not told about witness statements to 911, only that there had
4 been reports of a man with a gun, who had fired shots into the air. Presentation to the
5 jury of evidence or argument on these subjects would allow the jury to expand the
6 scope of its excessive force analysis, which is impermissible under Graham and
7 related precedent, and therefore is not relevant and should be excluded.

8 **B. Evidence of Decedent’s Prior Contacts with Law Enforcement and**
9 **Restraining Order Are Unfairly Prejudicial**

10 Exposing the jury to information that was unknown to the defendant deputies
11 at the time of the shooting would unduly prejudice Plaintiff by creating a substantial
12 risk of a decision by the jury on an improper basis. Rule 403 provides for the
13 exclusion even of relevant evidence “if its probative value is substantially
14 outweighed by a danger of...unfair prejudice, confusing the issues, [and/or]
15 misleading the jury...” Evidence is unfairly prejudicial if it creates an “undue
16 tendency to suggest decision on an improper basis, commonly, though not
17 necessarily, an emotional one.” *United States v. Hankey*, 203 F.3d 1160, 1172 (9th
18 Cir. 2000); *see Larez v. City of Los Angeles*, 946 F.2d 630, 642 n.5 (9th Cir. 1991)
19 (evidence is likely to inflame the jury if it tends to evoke a juror’s anger or punitive
20 impulses).

21 Evidence regarding a party’s negative interaction with law enforcement is
22 particularly susceptible to improper use or consideration by juries. “As the Ninth
23 Circuit has explained, ‘evidence of other crimes or wrong acts is not looked upon
24 with favor and must be carefully scrutinized to determine probative value.’”
25 *Hermosillo v. County of San Bernardino*, 2017 WL 5479645, at *2 (C.D. Cal. Feb.
26 16, 2017) (quoting *United States v. Aims Back*, 588 F.2d 1283, 1287 (9th Cir. 1979));
27 *see id.* (finding “that any probative value regarding [decedent’s] prior arrests (as

1 opposed to convictions) or the nature of the outstanding warrant would be
2 substantially outweighed by the significant risk of unfair prejudice to plaintiffs”); *see*
3 *also Jackson v. City of Gahanna*, 2011 WL 587283, at *5 (S.D. Ohio Feb. 9, 2011)
4 (“Allowing evidence of the illegal items seized from the Plaintiff . . . would
5 undermine the protections of the Fourth Amendment by permitting the jury to infer
6 that the Plaintiff’s culpability or status as a presumed drug dealer justify the
7 Defendant’s use of force against him.”). “[E]ven a murderer has a right to be free
8 from [civil rights violations] and the correlative right to present his claim[s] of
9 [violations] to a jury that has not been whipped into a frenzy of hatred.” *Wilson v.*
10 *City of Chicago*, 6 F.3d 1233, 1236 (7th Cir. 1993).

11 Details regarding Decedent’s prior contacts with law enforcement and the
12 restraining order taken out against him, all of which the defendant deputies were
13 unaware at the time they used force against him, are likely to lead the jury to an
14 improper, emotional decision. Allowing the jury to hear testimony or evidence
15 regarding unrelated encounters with law enforcement and the court system — details
16 that are wholly irrelevant, as explained above — would create a significant risk of
17 prejudice based on jurors’ views of the propriety of Decedent’s past decisions or
18 what they perceive to be his morals or quality of character. Introduction of such
19 evidence risks the jury impermissibly deciding the reasonableness of the deputies’
20 force based on its view of who Decedent was as a person, or based on a desire to
21 punish Decedent (or not “reward” Plaintiff, his heir), rather than on the circumstances
22 facing and known to the deputies at the time. *See Engman v. City of Ontario*, 2011
23 WL 2463178, at *10 (C.D. Cal. June 20, 2011) (“even if the evidence of plaintiffs’
24 prior convictions and bad acts were admissible for a non-character purpose, the
25 probative value of such evidence is substantially outweighed by the unfair prejudice
26 to plaintiffs” under Rule 403); *Hosey v. City of Los Angeles*, 2011 WL 13213573, at
27 *5 (C.D. Cal. Feb. 25, 2011) (explaining, in § 1983 case arising from domestic

1 violence call, that evidence plaintiff had been in prior domestic arguments “that
2 involved ‘some shoving’” was “substantially prejudicial” and that “[t]here is a
3 substantial risk that the jury may infer from th[at] fact ... that plaintiff engaged in acts
4 of domestic violence on the day of the incident,” and excluding evidence under Rule
5 403 after “[b]alancing the substantial risk of unfair prejudice against the minimally
6 probative value of the evidence”).

7 Admission of such evidence also poses a substantial risk of leading to
8 “litigation of collateral issues, thereby creating a side issue which might distract the
9 jury from the main issues.” *Blancha v. Raymark Industries*, 972 F.2d 507, 516 (3d
10 Cir. 1992); see *Arlio v. Lively*, 474 F.3d 46, 53 (2d Cir. 2007); *Rockwell v. Yukins*,
11 341 F.3d 507, 513 (6th Cir. 2003) (en banc). The central factual dispute in this case is
12 whether Decedent posed an immediate threat of death or serious bodily injury to
13 anyone when the defendant deputies fired at Decedent. Refuting the inferences of
14 criminal liability and character deficits would necessitate several mini trials on
15 collateral issues that have nothing to do with the central factual dispute, thereby
16 “confusing the issues, misleading the jury,” Fed. R. Evid. 403, “turn[ing] the trial of
17 defendants into a trial of [decedent],” *Wilson*, 6 F.3d at 1236, and depriving Plaintiff
18 of a fair trial, *Blancha*, 972 F.2d at 516.

19 **C. Decedent’s Prior Contacts with Law Enforcement and Restraining Order**
20 **Are Improper Character Evidence**

21 Under the Federal Rules of Evidence, Rule 404, many of the foregoing items
22 of evidence Plaintiff seeks to exclude cannot be used to prove that Decedent acted in
23 conformity with some general “bad character” during the incident. Rule 404(a)(1)
24 specifically prohibits character evidence, stating that “[e]vidence of a person’s
25 character or character trait is not admissible to prove that on a particular occasion the
26 person acted in accordance with the character or trait.” Further, Ninth Circuit case
27 law is clear that character evidence is normally not admissible in a civil rights case.

1 *See Gates v. Rivera*, 993 F.2d 697, 700 (9th Cir. 1993). Character must be “in issue,”
2 *i.e.*, an essential element of a charge, claim, or defense, for character evidence to be
3 admitted. *See* Adv. Comm. Notes, Fed. R. Evid. 405(b); *United States v. Mendoza–*
4 *Prado*, 314 F.3d 1099, 1103 (9th Cir. 2002). Character is not an essential element in
5 any claim or defense to be tried in this matter. For example, testimony or evidence
6 from information gathered after the incident relating to any unknown history or other
7 crimes, wrongs, or acts, or investigative findings poses a danger that the jury will (1)
8 improperly infer that defendant officers knew this information, (2) improperly infer
9 that Decedent had the propensity to act violently or recklessly toward the defendant
10 officers, and (3) reach a verdict that does not reflect the circumstances facing the
11 officers at the time.

12 Rule 404 is most implicated by Defendants’ intention to introduce evidence of
13 details regarding Decedent’s three prior contacts with law enforcement, including
14 details regarding a 5150 hold, an FBI file, and a restraining order. Such evidence
15 cannot be used to show Decedent’s character or that he acted in conformity therewith.
16 *Palmerin v. Riverside*, 794 F.2d 1409, 1414 (9th Cir. 1985) (excluding “any
17 circumstantial evidence that requires an inference of a person’s character to make it
18 relevant”). Moreover, any argument that this evidence is admissible under Rule
19 404(b)(2) or 406 is unavailing. Admission of the information unknown, including as
20 listed herein, would be nothing more than a backdoor attempt to tarnish Decedent’s
21 character and pollute the jury against him.

22 **D. Information Unknown to Defendant Deputies Is Inadmissible under**
23 ***Boyd***

24 To the extent that Defendants argue such evidence is relevant pursuant to *Boyd*
25 *v. City and County of San Francisco*, 576 F.3d 938 (9th Cir. 2009), subsequent cases
26 within the Ninth Circuit have limited *Boyd*’s holding to a specific set of
27 circumstances that are not present here. As another court in this district recognized,

1 “[i]n Boyd, we have a traumatic life-changing event that caused the amputation of
2 both of the decedent’s legs ‘that could be tied to police action,’ which made it more
3 likely that [the decedent] resolved to place liability for his death on the police, and
4 “there was evidence that [the decedent] was arrested three days prior while
5 performing a ‘practice run’ during which he exclaimed “kill me,” and the decedent
6 “was aware of the substantial damages his family could receive if the police were
7 found liable for his death.” *Shirar v. Guerrero*, No. EDCV13906JGBDTBX, 2017
8 WL 6001270, at *10 (C.D. Cal. Aug. 2, 2017). And, “[s]ince *Boyd*, the Ninth Circuit
9 appears to have retreated somewhat from its holding.” *Estate of Tindle v. Mateu*, No.
10 18-CV-05755-YGR, 2020 WL 5760287, at *11 (N.D. Cal. Sept. 28, 2020) (citing
11 *Hayes v. Cnty. of San Diego*, 736 F.3d 1223, 1232-33 (9th Cir. 2013); *Glenn.*, 673
12 F.3d at 873 n.8; *see Morad v. City of Long Beach*, No. CV166785MWFAJWX, 2018
13 WL 11352372, at *6 (C.D. Cal. June 15, 2018) (recognizing that it was “apparent that
14 the Ninth Circuit has clarified its position on unknown, preshooting knowledge,
15 holding that it is inadmissible to establish the reasonableness of an officer’s
16 conduct.”); *Ruvalcaba v. City of Los Angeles*, No. 2:12-CV-06683-ODW, 2014 WL
17 4426303, at *2 (C.D. Cal. Sept. 8, 2014) (same).

18 Additionally, this incident was captured on video from several different angles,
19 which will allow the jury to decide for themselves as to whether the deputies
20 correctly perceived Decedent to be an imminent threat at the time of the shooting,
21 without the need for extrinsic evidence. There is no dispute that Decedent did not
22 manipulate the rifle, raise the rifle, or point the rifle at any time prior to or during the
23 shooting. Nor is there any dispute that the video blatantly contradicts Deputy
24 Vazquez’s claim that Decedent suddenly raised his right arm immediately prior to
25 Deputy Vazquez’s first shot or that Decedent turned and faced Deputy Vazquez prior
26 to Deputy Vazquez’s second shot. Thus, the information unknown to the defendant
27 deputies has no probative value to the use of force analysis in light of the video

evidence of the shooting and to the extent that there some probative value could be found, it is outweighed by the prejudicial effect of the evidence. *See Estate of Tindle v. Mateu*, No. 18-CV-05755-YGR, 2020 WL 5760287, at *12 (N.D. Cal. Sept. 28, 2020) (finding that *Boyd* did not require the admission of evidence unknown to the officer that the decedent possessed or fired a gun just prior to the officer's arrival because the officer's body camera captured the entire incident such that there was no material dispute as to the conduct of decedent and the officers before and at the time of the shooting, and therefore, information unknown to the officer had little to no probative value on the question of whether the officer correctly perceived the decedent to be an imminent threat); *I.H. v. California*, No. 2:19-CV-02343-DAD-AC, 2025 WL 531798, at *3 (E.D. Cal. Feb. 18, 2025) (prejudicial evidence of decedent's drug use on the day of the incident had almost no probative value in light of the video footage capturing decedent's driving behavior); *Estate of O'Brien v. City of Livingston*, No. 18-cv-00106-BLG-TJC, 2021 WL 3565574, at *1–2 (D. Mont. Aug. 12, 2021) (excluding evidence of decedent's drug use during the incident where video of the interaction existed and thus the case was "not a situation where evidence of intoxication may tend to support one version of events of another.").

E. Conditional Request for Bifurcation of Liability and Damages

Should the Court find that some evidence of Decedent's prior contacts with law enforcement or with the court system may have some relevance on the basis of damages, Plaintiff requests that the Court bifurcate trial into two phases: liability and damages. The Ninth Circuit has observed that "where...graphic and prejudicial evidence about the victim has little, and in large part no, relevant to the liability issue, district courts should bifurcate to avoid [prejudicial error]". *Estate of Diaz v. City of Anaheim*, 840 F.3d 592, 603 (9th Cir. 2016).

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1 **III. CONCLUSION**

2 For the foregoing reasons, Plaintiff respectfully request the Court issue an order
3 excluding any evidence, references, or arguments to information not known to the
4 defendant deputies at the time of the incident.

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7 Respectfully submitted,

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9 DATED: January 5, 2026

LAW OFFICES OF DALE K. GALIPO

10
11 By /s/ Hang D. Le

12 Dale K. Galipo

13 Hang D. Le

14 Attorneys for Plaintiff
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